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***BOOKLET ON
LEGAL AND ETHICAL ISSUES IN
CARE OF CHILDREN***



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INTRODUCTION

Nursing is Nobel profession; it involves care during all aspects of health, sickness, personal life and community life. Nursing practice is governed by many legal concepts. Nurse patient relationship on the health care team will require participation in difficult or controversial decision. The ethical principle guides professional practice and decision making in health care delivery system. The legal foundation for the practice of nursing provides safeguards for health care and sets standards by which nurses can be evaluated. It is important for pediatric nurses to know the basics of legal and ethical concepts, because nurses are accountable for their professional judgments and actions.

The contents are assembled as follows

- ⇒ Definition of law in nursing practice.
- ⇒ Functions and importance of the law in pediatric nursing.
- ⇒ Laws in nursing.
- ⇒ Legal safeguards in nursing practice.
- ⇒ Ethical principles in nursing practice.
- ⇒ Common legal and ethical issues in nursing practice.
- ⇒ Nurses role in prevention of legal and ethical issues in care of a children.

DEFINITION

The Law constitutes body of principles recognized or enforced by the public and regular tribunal has the administration of justice.

-POUND-

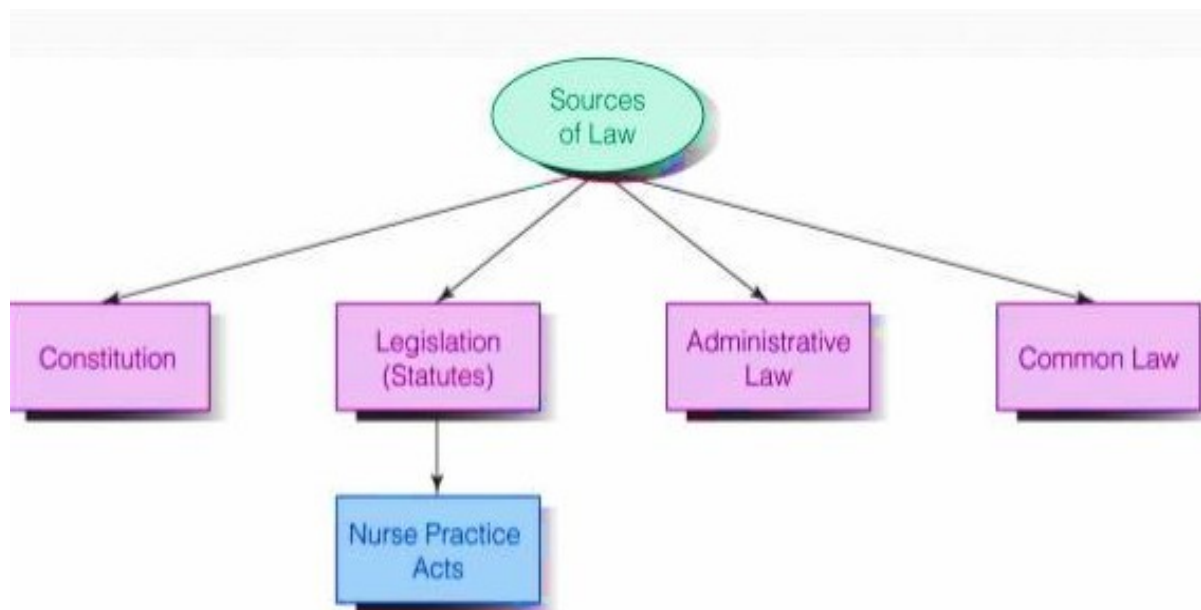
FUNCTIONS OF THE LAW IN PEDIATRIC NURSING

- Protect the nurse from legal issues
- Protect the right of clients and nurses
- Ensure the safe nursing practice
- Identify the risk of liability

IMPORTANCE OF THE LAW IN PEDIATRIC NURSING

- Provides a legally protected framework for pediatric nursing actions in the care of children.
- Differentiates the nurse's responsibilities from those of other health professionals.
- Establishes the boundaries of independent nursing action.
- It assists in maintaining a standard of nursing practice
- To ensure that the pediatric nurses decisions and actions are consistent with current legal principles.
- To protect the pediatric nurse from liability

LAWS IN NURSING



Common law: Created by judicial decisions made in courts when individual cases are decided

Felony: Is a crime of serious nature that has a penalty of imprisonment for greater than one year or even death.

Misdemeanor: Is a less serious crime that has a penalty of a fine or imprisonment of less than one year.

Civil Law: Protects the rights of individual persons within our society and encourage fair and equitable treatment among people.

Contract Law: It is the enforcement of agreements among private individuals. Employment Contracts is an example of contract law under civil law

Criminal Law: Prevent harm to society and provides punishment for crimes

LEGAL CONSIDERATIONS

1st nursing law: Nursing registration- 1903

Indian nursing council act: enacted in 1947 .Amended in 1957

LEGAL SAFEGAURDS IN NURSING PRACTICE

Three categories of safeguards determine how the law views nursing practice:

- Nurse practice acts
- Standards of care set by professional organizations
- Rules and policies set by the institution employing the nurse.

NURSE PRACTICE ACTS

Every state has a Nurse Practice Act that determines the scope of practice of registered nurses in that state.

Nurse Practice Acts defines what the nurse is and how to practice nursing care legally.

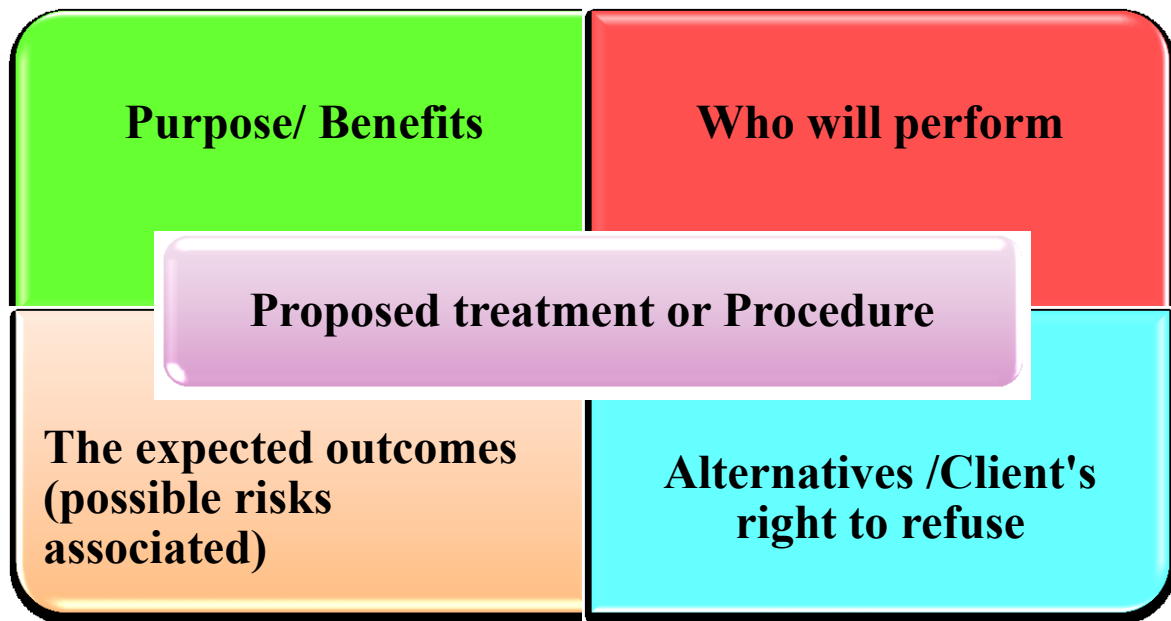
- **Licensure**
- **Good Samaritan Laws**
- **Good Rapport**
- **Standards of care**
- **Standing orders**

- **Correct identity**
- **Counting of sponge instrument and needles**
- **Informed consent for operation and other procedures**

A patient coming in to hospital still retains his rights as a citizen and his entry only denotes his willingness to undergo an investigation or a course of treatment. Any investigation or treatment of a serious nature, or an operation in which an anaesthetic is used, requires the written consent of the patient. Obtaining informed consent is the responsibility of the physician and the nurse has to serve as the witness to the client's signature on an informed consent

- ✍ Identify appropriate person to provide informed consent for client (e.g., client, parent, legal guardian)
- ✍ Provide written materials in client's spoken language.
- ✍ Health professional should explain the facts in a language that the parent/child understands.
- ✍ Describe components of informed consent
- ✍ Participate in obtaining informed consent
- ✍ Verify that the client comprehends and consents to care and procedures.

COMPONENTS



Assent

Assent means the pediatric client (usually older child) has been informed about what will happen during the treatment or procedure, and willing to permit a health care provider to perform the cares

➤ **Contracts**

A contract is a written or oral agreement between two people in which goods or services are exchanged.

➤ **Documentation**



✍ Documentation is by far the best once a lawsuit field.

✍ The medical record is a legal document admissible in court as evidence

Definition

ETHICS

Ethics is the study of good conduct, character, and motives. It is concern with determining what is good or valuable for all people.

Potter and Perry

CODE OF ETHICS

A Code of Ethics is a set of ethical principles that are accepted by all members of a profession.

Potter and Perry

I.C.N CODE OF ETHICS FOR NURSES (1973)

International Council for Nurses Code of Ethics for Nurses said that:

- The fundamental responsibility of the nurses is of four fold: to promote health, to prevent illness, to restore health and to alleviate suffering.
- The need for nursing is universal. Inherent in nursing is respect for life, dignity, and rights of men. It is unrestricted by considerations of nationality, race, creed, Color, age, sex, politics or social status.
- Nurses render health services to the individual, the family and the community and coordinate their services with those of related groups.



Ethical Principles

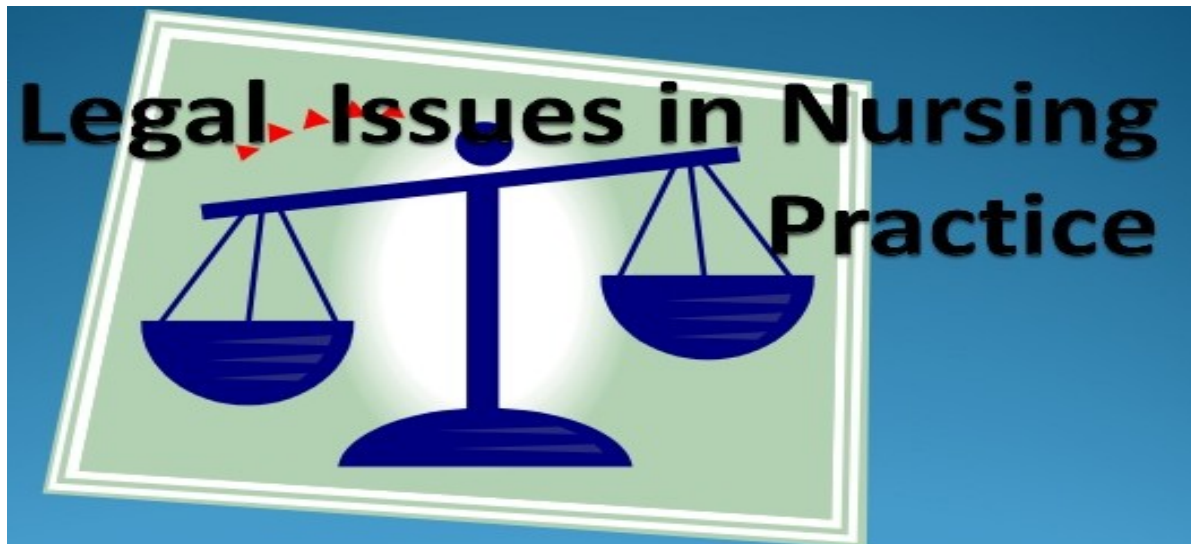
- Autonomy
- Beneficence
- Nonmaleficence
- Justice
- Veracity
- Fidelity



AUTONOMY	The right of self- determination, independence and freedom. Right to health care decision.
JUSTICE	Obligation to be fair with all people.
FIDELITY	Obligation of an individual to be faithful to the commitment made to himself, and to others. It is the main support of accountability.
VERACITY	The duty to tell the truth.
BENEFICENCE	Doing good for the client. What exactly is good for one person may not be the same for others.
NONMALAEFICENCE	Is the requirement that health care providers do no harm to their client either intentionally or un intentionally.

COMMON LEGAL AND ETHICAL ISSUES IN NURSING PRACTICE

- i. Refusal of medical care by parent or child
- ii. Organ donation and transplantation
- iii. Death and related issues



REFUSAL OF MEDICAL CARE BY PARENT OR CHILD

PARENS PATRIE: Is a legal rule that allows the state to make decision in place of parents when they are unable or unwilling to provide for the best interest of the child.

EMANCIPATION: It means Legal recognition that the minor lives independently.

ORGAN DONATION AND TRANSPLANTATION

Ethical issues related to organ transplantation include allocation of organ, selling of body parts, involvement of children as potential donors consent, clear definition of death and conflicts of interest between potential donors and recipients.

DEATH AND RELATED ISSUES

a) Withholding and Termination of Life-Sustaining Treatment

Many ethical dilemmas arise which cardiopulmonary includes resuscitation orders or do not resuscitate orders (DNR), limiting treatment, withdrawing treatment, and definitions of brain death.

b) Euthanasia

(Ending life by passive or active means) is a good death or mercy killing. Clients can decide for themselves whether to be part of active euthanasia and may request life-termination treatments such as overdoses of medication.

c) Autopsies of children

An autopsy is a surgical procedure designed to determine the cause of death. (**Autopsy Consent, 1998**)

TORT

A tort is a civil wrong made against a person or property. Torts are classified as intentional, quasi-intentional, or unintentional.

Intentional Torts : Assault, Battery, False Imprisonment.

Quasi-intentional Torts : Invasion of privacy, Defamation of character.

Unintentional Torts : Negligence, Malpractice

<i>TORTS</i>	Torts are when others interfere in individual's privacy.
<i>ASSAULT</i>	Assault occurs when a person puts another person in fear of a harmful or offensive contact.
<i>BATTERY</i>	It is an intentional touching of another's body without the other's consent.
<i>FALSE IMPRISONMENT</i>	It occurs when a client is not allowed to leave a health care facility when there is no legal justification to detain the client or when restraining devices are used without an appropriate clinical need.
<i>NEGLIGENCE</i>	It is described as lack of proper care and attention carelessness.
<i>MALPRACTICE</i>	Failure to meet the standards of acceptable care which results in harm to another person.
<i>FRAUD</i>	It results from a deliberate deception intended to produce unlawful gains.
<i>DEFAMATION OF CHARACTER</i>	Is the issuance of a false statement about another person, which causes that individual to suffer harm.
<i>INVASION OF PRIVACY</i>	It includes violating confidentiality intruding on private client or family matters, and sharing client information with unauthorized persons

There are 2 types of defamation.

- i) **Slander defamation:** Slander occurs when one speaks falsely about another. This is in the form of spoken words.
- ii) **Libel:** Libel is the written defamation of character. It involves the making of defamatory statements in a printed form, such as a newspaper.

MALPRACTICE

Medical malpractice is professional negligence by act or omission by a health care provider in which care provided deviates from accepted standards of practice in the medical community and causes injury or death to the patient

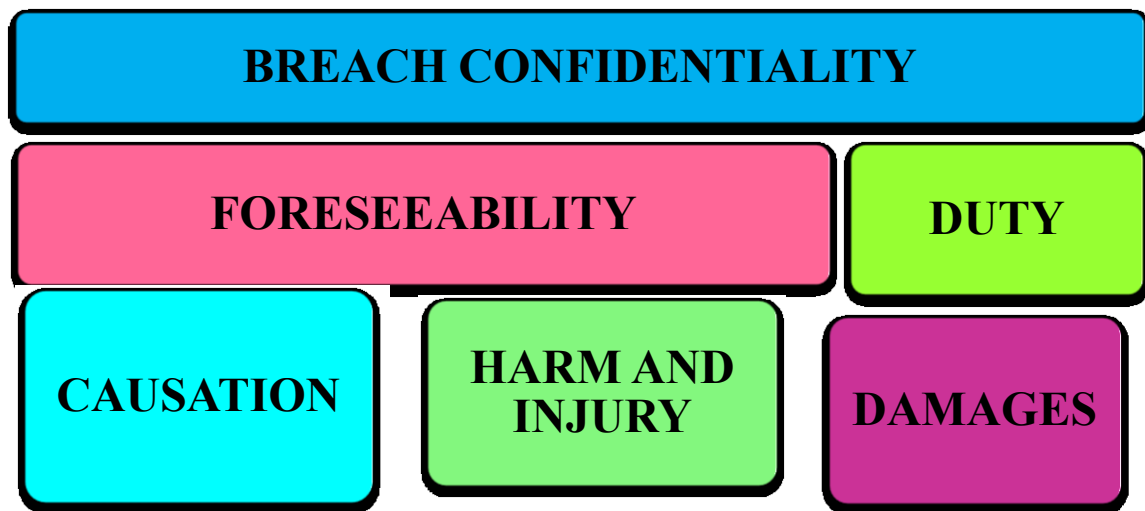
TYPES OF NURSING MALPRACTICE

Nursing malpractice takes many forms, including:

- Medication errors
- Failure to follow a physician's orders
- Delaying patient care and/or failure to monitor a patient.
- Incorrectly performing a procedure, or trying to perform a procedure without training.
- Documentation error.
- Failure to get informed patient consent.

ELEMENTS OF NURSING MALPRACTICE

The six essential components of malpractice include causation, foreseeability, damages to the patient, a duty that was owed to the client and this duty was breached, and, lastly, this breach of duty led to direct and/or indirect harm to the client.



DUTY

It is the duty of the nurse to perform patient care and treatment with acceptable standard. There must be a duty owed to the patient.

BREACH OF DUTY AND CONFIDENTIALITY

Breach of Duty: Failure to note and report to the higher authority about the seriousness. The specific duty owed to the patient has been breached, meaning that the duty has not been met.

Breach of confidentiality: Nurses are legally and ethically responsible for keeping medical records and other types of client communications confidential. If nurse breaches confidentiality, she or he can be held responsible for any damages that result. Health care personnel can breach confidentiality if he or she does not protect child right.

FORESEEABILITY

A link must exist between the nurse's act and the injury suffered.

CAUSATION

It must be prepared that the occurred harm must be because of nurse's failure to follow the standard of care. There must be a direct cause-and-effect link between the breach of duty and the injury.

HARM AND INJURY

The client must demonstrate some type of harm or injury (physical mental and emotional) as a result of breach of duties owed by the client.

DAMAGES

Damages occur as a result of the breach. The patient must have suffered emotional or physical injury while in the care of the healthcare practitioner. The injury can be a new one, or an aggravation of an existing injury.

MEDICO-LEGAL CASE (MLC)

An MLC is a patient who is admitted to the hospital with some un-natural pathology and has to be taken care of in concurrence with the police and court.

Nurses Role in Medico-Legal Case

- ★ Obtain complete history.
- ★ Inform the police on duty in the hospital and the CMO.
- ★ When made into a MLC, it should be recorded on the patient's case sheet with '**RED INK**' on the right-hand top corner
- ★ Don't give any statement about patient's condition to police, magistrate or media, only a doctor has to give information.

- ★ When a patient has to be discharged, inform the police, CMO. After clearance from there, then only the patient can be discharged.
- ★ If a MLC patient absconds, inform the CMO immediately and the treating doctor.
- ★ No MLC patient can leave against medical advice.(LAMA)
- ★ In case of death of an MLC, the body is not to be handed over to the relatives. It needs to be accurately labelled and sent to the mortuary. Appropriate authorities must be informed.

PREVENTION OF LEGAL AND ETHICAL ISSUES IN CARE OF CHILDREN MALPRACTICE PREVENTION



- ***Left Against Medical Advice*** (L.A.M.A.) - Inform medical officer in charge. Signatures of both patients and witness to be taken as per institutional policy.
- ***Patient's Property***: Inform patient on admission that hospital does not take responsibility of his belongings. If patient is unconscious/ or otherwise required then a list of items must be made, counter checked by two staff nurses and kept under safe custody.

- **Advocacy:** Safeguarding the client's rights and supporting their interest .Practice of advocacy calls for the nurse to assess the client's point of view and prepare to articulate this point of view.
- **Dying Declaration:** Doctor or nurse should not involve themselves in dying declaration. Dying declaration is to be recorded by the magistrate. But if condition of patient becomes serious then medical officer can record it along with witness of two nurses. Dying Declaration can be recorded by the nursing staff with two nurses as witness when medical officer is not present. Then the declaration has to be sent immediately in a sealed cover to the magistrate.

NURSES ROLE TO PREVENT COMPLICATIONS

- ★ Treat client with dignity by providing holistic care.
- ★ Respect individual families conduct of beliefs, norms, cultural practices discourage healthy practices.
- ★ Take autonomous decisions and involving individuals and family members in care.
- ★ Ensure safe practices.
- ★ Aware of roles and responsibilities as a team member.
- ★ Aware of hospital policies and standards providing care.
- ★ Maintain effective interpersonal relationship with individuals, family, community and society
- ★ Review nursing practice periodically. Update knowledge and improve skill by attending short term courses, in-service education and continuing education programmes.
- ★ Follow nursing practice standards/protocols.
- ★ Be a keen observer.

★ Written instructions must have rules and code of practice laid down to ensure the safety and well-being of patients and nurses.

☎ Telephonic orders only in an extreme emergency and when no other resident or intern is available should a nurse receive telephonic orders. The nurse should read back such order to the physician to make the certain order has been correctly written. Such order should be sign by the physician on his next visit within 24 hours

✍ Maintain records and reports of the unit properly.



Adhere the six rights for administration of medication

1. Right medication,
2. Right dose,
3. Right patient
4. Right route,
5. Right time,
6. Right documentation



Besides the following 3 also need to be taken into account,

7. Right assessment,
8. Right evaluation,
9. Right patient education

CONCLUSION

Nursing personnel must have holistic knowledge regarding legal and ethical issues in care of children and its prevention. To avoid legal and ethical issues, a nurse should follow the standards of care, to provide competent care, communicate with other health care workers and develop a good therapeutic caring relationship. These will upgrade the nursing profession as well as to protect our self and clients from legal and ethical implications.

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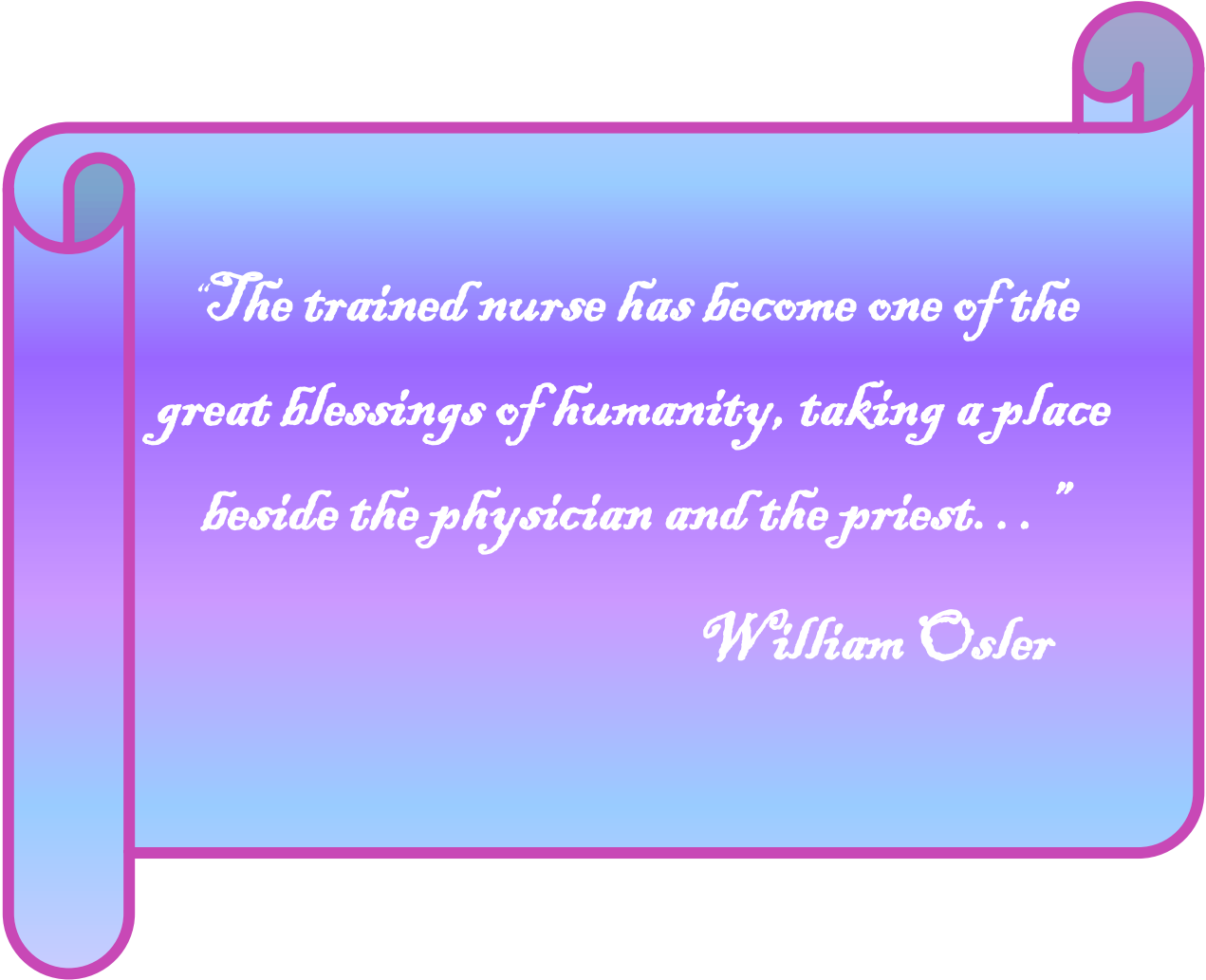
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"The trained nurse has become one of the great blessings of humanity, taking a place beside the physician and the priest. . . "

William Osler